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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,244	03/30/2004	Donovan Ruddock		8145

7590

07/13/2005

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EXAMINER

SELF, SHELLEY M

ART UNIT

PAPER NUMBER

3725

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,244

Applicant(s)

RUDDOCK, DONOVAN

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the examiner on form PTO-892 has cited the references, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 8, 10, 14, 24 & 33. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

All of the drawings should be reviewed to ensure proper correlation between reference characters within the specification.

Specification

The disclosure is objected to because of the following informalities:

-Pg. 12, lines 10 and 11, it is not clear what is meant by "*peripheral rim 12 ash 12a...*",

Examiner suggest, **--should be 12 and 12A--**

Appropriate correction/clarification is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 11 and 12, recite, "the clamp means", there is no antecedent basis for, this limitation within the claim. Correction is required.

Further regarding claim 1, the word "means" is preceded by the word(s) "*latch*" (line 6) and "*clamp*" (lines 11, 1) in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App.

1967). Examiner suggests, --means for latching--, --means for clamping--. Appropriate correction is required.

Claim 1, appears to contain allowable subject matter and would be allowed if the 35 U.S.C. 112 rejections were overcome.

Allowable Subject Matter

Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejections were overcome.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or fairly suggest a manual trash compactor comprising a peripheral rim having a means for storing a flat object under the cover; the handle having a slot along a bottom of the handle and a vertical shaft adapted for storing within the slot of the handle in combination with the rest of the claimed limitations as set forth in claim 1.

The prior art reference, Ernst (2003/0024419) discloses a manual trash compactor comprising a trash container (10), a trash cover (14) adapted to fit securely and removably on the trash container (10), the trash cover having a central opening (fig. 4) there through, a telescopic vertical rod (38, 38A, 38B) disposed through central opening (fig. 4). Ernst discloses the rod (38, 38A, 38B) to be coupled to a compacting plate (36) via a bracket (fig. 9) such that the compacting plate is moved vertically within the container via movement of the rod (38, 38A, 38B). For storage, Ernst discloses the rod (38) pulled vertical until the free ends (44) and bracket (43) project upwardly through the opening in the cover (14) and the compacting plate (36) is

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drawn up under the cover (14), the rod (38) is then rotated 90° to lie horizontally with the slot (fig. 1, 4) of the cover (14), during such sliding the free ends (44) of the bracket (43) slide along the grooves (42) in the rod (38) to allow the compacting plate (36) to be stored and secured under the cover. Ernst does not disclose a pivot means at one edge of the top surface of the cover, a lever arm handle pivotally attached and having a slot, the peripheral rim of the top surface having means for storing a flat object under the cover. Accordingly, Ernst fails to anticipate or render obvious the claimed invention as set forth in claim 1.

Martorella et al. (6,851,357) discloses a manual trash compactor (10) comprising a trash container (12) a trash cover (16) adapted to fit removably on the trash container (12), the cover having a central opening (fig. 2) through which a vertical shaft is located (36), a lever arm handle pivotally attached at one end of the cover (fig. 2) and having a free opposite end that is contained during storage in a means for clamping (fig. 5) such that when clamped, the cover (16) can be raised/opened. Martorella discloses the vertical shaft (36) to be pivotally attached (32, 33, 33') to the lever arm handle (26, 34) at one end of the vertical shaft (36) and the opposite shaft end coupled to a compacting plate (50) that is vertically displaceable within the container (16) upon movement of the lever arm handle (26, 34). Martorella does not disclose the cover having a peripheral rim having means for storing a flat object under the cover, the lever arm having a slot or the vertical shaft being adapted for storage within the slot of a lever arm. Accordingly, Martorella fails to anticipate or render obvious the claimed invention as set forth in claim 1.

Although, Ernst discloses a means for storing a manual compactor handle, and Martorella discloses a pivotally attached vertical shaft and lever arm, there is no motivation to combine the references and such would be impermissible hindsight. Furthermore, neither reference discloses

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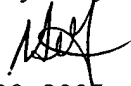
or fairly suggests, the lever arm having a slot for storing the vertical shaft. Thus claim 1 contains allowable subject matter over the prior art of record.

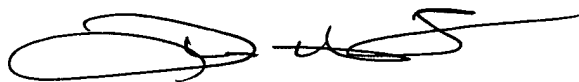
Neither the prior art of record alone nor in combination thereof discloses the claimed invention as set forth in claim 1. Therefore, claim 1 and its dependents would be allowable over the prior art of record if re-written to encompass the same scope and overcome the 35 U.S.C. 112 rejection(s).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf 
June 30, 2005



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